

REMARKS

Claim 1 stands rejected as anticipated under 35 USC 102(b) by Simard (US 6476592). Claim 1 is amended to add the limitation "said replacement fluid portion having multiple connectors joined to flow through said sterilizing filter into a common inlet to the replacement fluid portion." Simard does not show such a structure nor by any of the cited references.

Claim 9 stands rejected over Simard in view of Chevallet (US 5441636). Claim 9 has been amended to include the limitations "the waste fluid circuit having multiple connectors joined to a common line that feeds replacement fluid to the blood circuit, the common line being a part of the replacement fluid portion," which are not shown, or rendered obvious, by the cited references.

Claim 18 stands rejected over Simard in view of Chevallet (US 5441636). Claim 9 has been amended to include the limitations "wherein said input end of said replacement fluid line has a branching connector with multiple ends for connection to multiple fluid sources" which are not shown, or rendered obvious, by the cited references.

In the Office Action, the Examiner took the position that limitations similar to those added to the independent claims constituted mere duplication of elements which rendered the limitation obvious. The BPAI and the Federal Circuit have admonished that reliance on such *per se* rules of obviousness fails to address the burden on the Examiner to "explain why the prior art would have suggested to one of ordinary skill in the art the desirability of the modification." Ex parte Ernst Hendrik August Granneman, Albert Hasper And Jan Zinger, (BPAI) Appeal No. 2002-1760. In addition, if one compares the facts of the case cited in the MPEP as an example where duplication of parts was concluded to be obvious, they are clearly distinguishable. The Examiner has not provided a proper foundation for the rejection and Applicants contend there is no motivation or suggestion in the prior art, without the identification of a problem to be solved and the guidance of the Applicants' solution to it, to duplicate the parts whose duplication the Examiner proposes is obvious.

Further to the above point regarding per se obviousness, if Examiner maintains the basis of rejection that duplication of bag spikes in the claimed structure is obvious, Applicants hereby request a reference supporting the position that the prior provides a motivation for duplicating elements to arrive at the claim structures.

The undersigned attorney may be reached at 202-778-1118.

Respectfully submitted,  
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